

J. THADDEUS SALMON  
ASSOCIATE

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THOMAS F. PARKER  
ATTORNEY AT LAW  
201 CLAYTON STREET  
MONTGOMERY, ALABAMA

September 17, 1956

Mrs. Alice J. Duck, Clerk  
Circuit Court of Baldwin County  
Bay Minette, Alabama

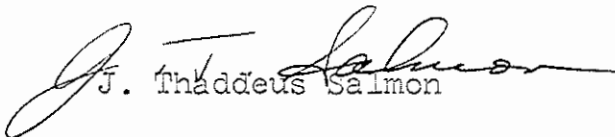
Re: Earl Bryars vs. H. L. Greene and  
Myrtle ~~Doris~~ Hendrix  
Case No. 2996

Dear Mrs. Duck:

Please file the enclosed demurrer in the above styled case  
and return a copy to me reflecting that the same has been filed.

Thank you very much.

Yours very truly,

  
J. Thaddeus Salmon

JTS:jat  
Enc:

EARL BRYARS

(Plaintiff)

Vs

H. L. GREENE and MYRTLE

DORIS HENDRIX

(Defendant)

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

CASE NO. 2996

DEMURRER

Come the defendant Myrtle Doris Hendrix  
and demur to each count of the complaint filed herein, separately and severally, and for grounds of demurrer  
set down and assign separately and severally, the following:

1. That it does not state facts sufficient to constitute a cause of action.
2. For that negligence is therein alleged merely as a conclusion of the pleader.
3. For that it is vague, indefinite and uncertain, in that it does not apprise this defendant with sufficient certainty against what act or acts of negligence defendant is called on to defend.
4. For that it does not appear with sufficient certainty what duty, if any, defendant may have owed to the plaintiff.
5. For that it does not appear with sufficient certainty wherein defendant violated any duty it may have owed to the plaintiff.
6. For that it does not sufficiently appear that the defendant owed any duty to the plaintiff which defendant negligently failed to perform.
7. For that there does not appear sufficient causal connection between defendant's said breach of duty and plaintiff's injuries and damages.
8. No facts are alleged to show that plaintiff sustained any damage or injury as the proximate result of any negligence or breach of duty on the part of the defendant.
9. For that there is a misjoinder of causes of action.
10. For that there is a misjoinder of parties plaintiff.
11. For that there is a misjoinder of parties defendant.
12. It is not alleged with sufficient certainty where said accident occurred.
13. For aught that appears, plaintiff had no right to be where he was at the time and place of said accident.
14. It is not alleged that the negligence complained of proximately caused the accident, the injuries and damages complained of.
15. The averments thereof are conflicting and repugnant.
16. For that no causal connection appears between the defendant's alleged negligence and the injuries and damages complained of by the plaintiff.
17. For that the allegations of said count are ambiguous.
18. For that the allegations of said count are argumentative, vague and uncertain.
19. It is not alleged that the willful or wanton conduct complained of proximately caused the accident, the injuries and damages complained of.
20. For that the facts averred in said complaint do not constitute willful or wanton negligence.
21. For aught that appears from said complaint, plaintiff's injuries and damages were not the direct and proximate result of any willful or wanton negligence on the part of defendant in this cause.
22. It is not alleged that the defendant willfully or wantonly injured the plaintiff.
23. For that the willful or wanton conduct complained of is but a conclusion of the plaintiff with no facts alleged in support thereof.

THOMAS F. PARKER

By

J. T. Salmer  
Attorney for Defendant

STATE OF ALABAMA )  
\*  
BALDWIN COUNTY )

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon H. L. Greene and Myrtle Doris Hendrix to appear within thirty days from the service of this writ in the Circuit Court, to be held for said County at the place of holding the same, then and there to answer the Complaint of Earl Bryars.

WITNESS my hand, this 2 day of August, 1956.

Archie J. Hurd  
Clerk.

H. L. Greene resides at Atmore, Escambia County, Alabama.  
Myrtle Doris Hendrix resides at Monroeville, Monroe County, Alabama.

\* \* \* \* \*

EARL BRYARS,

Plaintiff,

VS.

H. L. GREENE and MYRTLE DORIS  
HENDRIX,

Defendants.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
AT LAW

C O M P L A I N T  
COUNT ONE

The Plaintiff claims of the Defendant, H. L. Greene, the sum of Three Thousand Five Hundred Dollars (\$3,500.00) as damages for that heretofore onto-wit: April 19, 1956, the Plaintiff's automobile truck was being operated along and upon United States Highway No. 31, which is a public highway in Baldwin County, Alabama, where the said automobile truck had a right to be, and while said truck was being operated and driven along said public highway, at a point between Bay Minette and Stapleton approximately 1,000 feet South of the television relay tower located on the West side of said highway, an automobile which was being driven by the Defendant, Myrtle Doris Hendrix, who was then and there an agent, servant or employee of the Defendant, H. L. Greene, and who at said time and

place was acting within the line and scope of her authority as such agent, servant or employee, ran upon, over or against the truck of the Plaintiff, causing great damages to the Plaintiff's truck; the front, top, the entire body and other parts of Plaintiff's truck were broken, bent, smashed or otherwise damaged, all to the damage of the Plaintiff as aforesaid. The Plaintiff alleges that his said damages to his said truck were proximately caused by the negligence of the Defendant, Myrtle Doris Hendrix, in that she negligently caused, allowed or permitted said automobile to run upon, over or against the truck of the Plaintiff and as a proximate consequence thereof, the Plaintiff's truck was damaged as aforesaid. Plaintiff further alleges that at the time and place of the accident referred to herein the said Defendant, Myrtle Doris Hendrix, was the agent, servant or employee of the Defendant, H. L. Greene, and was acting within the line and scope of her authority as said agent, servant or employee.

#### COUNT TWO

The Plaintiff claims of the Defendant, Myrtle Doris Hendrix, the sum of Three Thousand Five Hundred (\$3,500.00) Dollars as damages for that heretofore on to-wit, April 19, 1956, the Plaintiff's automobile truck was being operated along and upon United States Highway No. 31, which is a public highway in Baldwin County, Alabama, where it had a right to be and while said automobile truck was being operated and driven along said public highway, at a point between Bay Minette and Stapleton approximately 1,000 feet South of the television relay tower located on the West side of said highway, an automobile which was being driven by the Defendant, Myrtle Doris Hendrix, ran upon, over or against the automobile truck of the Plaintiff, causing great damage to the Plaintiff's said truck; the front, top, the entire body and other parts of Plaintiff's truck were broken, bent, smashed or otherwise damaged, all to the damage of the Plaintiff as aforesaid. The Plaintiff alleges that his said damages to his said truck were proximately caused by the negligence

of the Defendant, Myrtle Doris Hendrix, in that she negligently caused, allowed or permitted said automobile to run upon, over or against the truck of the Plaintiff and as a proximate consequence thereof, the Plaintiff's truck was damaged as aforesaid.

  
Attorney for Plaintiff

Plaintiff demands a trial by jury of said cause.

  
Attorney for Plaintiff

Executed this 7 day  
August 1956 by serving  
a copy of the Summons

on H. L. Greene  
Alton Keller D.S.  
Sheriff

Executed this  
August 20, 1956  
by serving a copy  
of the within  
Summons & Complaint  
on Myrtle Doris  
Hendrix.

Warren Symore  
Sheriff  
Monroe County, Ala.

EARL BRYARS,  
  
Plaintiff,  
  
VS.  
  
H. L. GREENE and MYRTLE DORIS  
HENDRIX,  
  
Defendant.

Executed  
8/7/56  
By Alton Keller D.S.  
Attorney, Ala

RECORDED

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
  
AT LAW

FILED  
AUG 27 1956  
ALICE J. DUCK, Clerk

JAMES R. OWEN  
ATTORNEY AT LAW  
BAY MINETTE, ALABAMA